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Dated: 10-3-03

Signature: [Signature]

(Michael Boyd)

Docket No.: 377882001720
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Gary VAN NEST et al.

Application No.: 09/927,884

Confirmation No.: 5141

Filed: August 10, 2001

Art Unit: 1645

For: IMMUNOMODULATORY FORMULATIONS
AND METHODS FOR USE THEREOF

Examiner: P. Duffy

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Dear Sir:

This is in response to the Office Action mailed September 9, 2003 (Paper No. 12) which sets forth a restriction requirement for pending claims 1-84 in the above-identified application. A response to this action is due October 9, 2003. Accordingly, this response is timely filed.

Restriction has been required as between the following allegedly distinct groups of inventions:

- I. Claims 1-29 and 56-79, drawn to an immunostimulatory sequence linked to a nonbiodegradable microcarrier wherein the immunostimulatory sequence comprises the sequence 5'-C,G-3'.
- II. Claims 30-55, drawn to methods of modulating an immune response in an individual using an immunostimulatory sequence linked to a nonbiodegradable microcarrier wherein the immunostimulatory sequence comprises the sequence 5'-C,G-3

Applicants hereby elect Group I (claims 1-29 and 56-79), without traverse. Applicants expressly reserve their right under 35 U.S.C. § 121 to file a divisional application directed to the nonelected subject matter during the pendency of this application, or an application claiming priority from this application.

Should the elected product claims be found allowable, Applicants reserve the right to request rejoiner of withdrawn process claims which include all the limitations of the allowable product claim for examination (M.P.E.P. §821.04).

With regard to Group I, the Examiner required an election of a species of a polynucleotide of 7 nucleotides in length. Accordingly, Applicants hereby elect the 7 nucleotide sequence "TCGTCGA" as described, for example, at page 24, line 24. Applicants request that, upon allowance of a generic claim, the remainder of the species be included as permitted by 37 C.F.R. § 1.141(a).

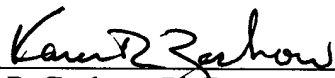
Applicants request reconsideration of the restriction requirement and examination of the elected subject matter on the merits.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 377882001720. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: October 3, 2003

Respectfully submitted,

By


Karen R. Zachow, Ph.D.

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1645

PTO/SB/21 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/927,884	
	Filing Date	August 10, 2001	
	First Named Inventor	Gary VAN NEST	
	Art Unit	1645	
	Examiner Name	P. Duffy	
Total Number of Pages in This Submission	3	Attorney Docket Number	377882001720

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply (2 pages) <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After-Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return postcard
Remarks Customer No. 25225		

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TECH CENTER 1600/2900**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	MORRISON & FOERSTER LLP Karen R. Zachow, Ph.D. - 46,332
Signature	
Date	October 3, 2003

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